

IN THE UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF NEW MEXICO

STATE OF NEW MEXICO, *ex rel.*
State Engineer

Plaintiff,

vs.

ROMAN ARAGON, *et al.*,

Defendants.

03/21/06 11:25

CLERK OF COURT

69cv07941 BB-ACB

RIO CHAMA STREAM SYSTEM
Section 7: Village of Chama

Subfile No. CHCV-008-0001

CONSENT ORDER

The Court, having considered the agreement between the Plaintiff State of New Mexico, *ex rel.* State Engineer ("State") and Defendant:

JICARILLA APACHE NATION

concerning the Defendant's right to use the public waters of the Rio Chama Stream System, as set forth below finds:

1. The Court has jurisdiction over the parties and the subject matter of this suit.
2. The State of New Mexico and the above-named Defendant are in agreement concerning certain elements of Defendant's right to divert and use the public waters of the Rio Chama Stream System, Village of Chama, Section 7, Subfile No. CHCV-008-0001, and by their signatures appearing below, the State and the Defendants have approved and accepted the elements of Defendant's water rights as set forth in paragraph 4 herein.

8239

3. There is no just reason for delay for the entry of a final judgment as to elements of the claims of the Defendant adjudicated by this order.
4. The agreed upon elements of the right of the Defendant to divert and use the public waters from the Rio Chama Stream System, Village of Chama, Section 7, Subfile CHCV-008-0001, are set forth below:

A. IRRIGATED LANDS (Groundwater Only):

Office of the State Engineer Files No(s): RG-25503

Priority: May 1, 1964

Source of Water: Underground waters of the Rio Chama Stream System and Rio Grande Underground Water Basin

Purpose of Use: IRRIGATION

Point of Diversion:

Well: BEAR CANYON WELL

Location: X= 1,556,006 feet **Y=** 2,125,380 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Within the Tierra Amarilla Grant

	<u>8.4 acres</u>
Total	8.4 acres

As shown on the attached Hydrographic Survey Map for Subfile No. CHCV-008-0001

Amount of Water: Reserved for future determination by court order entered November 19, 2002.

B. NO RIGHT (Groundwater):

Office of the State Engineer Files No(s): RG-25503

Priority: NONE

Source of Water: Underground waters of the Rio Chama Stream System and Rio Grande Underground Water Basin

Purpose of Use: NO RIGHT

Point of Diversion:

Well: BEAR CANYON WELL

Location: X= 1,556,006 feet Y= 2,125,380 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of acreage:

Within the Tierra Amarilla Grant

	<u>76.4 acres</u>
Total	76.4 acres

As shown on the attached Hydrographic Survey Map for Subfile No. CHCV-008-0001

Amount of Water: NONE

C. IRRIGATED LANDS (Groundwater Only):

Office of the State Engineer Files No(s): RG-25502 and RG-25503

Priority: April 25, 1964

Source of Water: Underground waters of the Rio Chama Stream System and Rio Grande Underground Water Basin

Purpose of Use: IRRIGATION

Point of Diversion:

Well: BEAR CANYON WELL

Location: X= 1,556,006 feet Y= 2,125,380 feet

Well: IRON SPRING WELL

Location: X= 1,554,850 feet Y= 2,127,901 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Location and Amount of Irrigated Acreage:

Within the Tierra Amarilla Grant

	<u>160.6 acres</u>
Total	160.6 acres

As shown on the attached Hydrographic Survey Map for Subfile No. CHCV-008-0001

Amount of Water: Reserved for future determination by court order entered November 19, 2002.

D. STORAGE IMPOUNDMENT (Groundwater & Surface Water Combined):

Office of the State Engineer Files No(s): 2748, 0434-B and RG-25502

Amount of Water & Priority:

34.55 acre feet October 8, 1951 (initial filling only)

4.73 acre-feet per annum	August 1, 1902	Surface Water
	April 25, 1964	Groundwater

Source of Water: Iron Spring, Iron Spring Draw, a tributary of the Rio Chama, and underground waters of the Rio Chama Stream System and Rio Grande Underground Water Basin

Purpose of Use: STOCKWATERING AND RECREATION

Point of Diversion:

Pond: VAUGHN POND NO. 1

Location: X = 1,553,618 feet Y= 2,126,732 feet

Well: IRON SPRING WELL

Location: X= 1,554,850 feet Y= 2,127,901 feet

Spring: IRON SPRING

Location: X= 1,554,850 feet Y= 2,127,901 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Pond Location and Surface Area:

Within the Tierra Amarilla Grant

Vaughn Pond No. 1

4.76 acres

Total 4.76 acres

As shown on the attached Hydrographic Survey Map for Subfile No. CHC'V-008-0001

Pond Volume: 34.55 acre-feet

Dam Height: 22 feet above stream bed

E. STORAGE IMPOUNDMENT (Surface Water Only):

Office of the State Engineer Files No(s): 2755 and 0434-B

Amount of Water & Priority:

65.7 acre feet November 28, 1951 (initial filling only)

6.92 acre-feet per annum August 1, 1902

Source of Water: An unnamed draw, a tributary of the Rio Chama.

Purpose of Use: STOCKWATERING AND RECREATION

Point of Diversion:

Pond: VAUGHN POND NO. 6

Location: X = 1,579,901 feet Y= 2,136,866 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Pond Location and Surface Area:

Within the Tierra Amarilla Grant

Vaughn Pond No. 6

	<u>6.94 acres</u>
Total	6.94 acres

As shown on the attached Hydrographic Survey Map for Subfile No. CHC'V-008-0001

Pond Volume: 65.7 acre-feet

Dam Height: 30 feet above stream bed

F. STORAGE IMPOUNDMENT (Surface Water Only):

Office of the State Engineer Files No(s): 2754 and 0434-B

Amount of Water & Priority:

52.98 acre feet November 28, 1951 (initial filling only)

6.12 acre-feet per annum August 1, 1902

Source of Water: An unnamed arroyo, a tributary of the Rio Chama.

Purpose of Use: STOCKWATERING AND RECREATION

Point of Diversion:

Pond: VAUGHN POND NO. 5

Location: X = 1,582,112 feet Y = 2,132,652 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Pond Location and Surface Area:

Within the Tierra Amarilla Grant

Vaughn Pond No. 5

	<u>6.14 acres</u>
Total	6.14 acres

As shown on the attached Hydrographic Survey Map for Subfile No. CHCV-008-0001

Pond Volume: 52.98 acre-feet

Dam Height: 35 feet above stream bed

G. STORAGE IMPOUNDMENT (Surface Water Only):

Office of the State Engineer Files No(s): 2749 and 0434-B

Amount of Water & Priority:

45.10 acre feet October 8, 1951 (initial filling only)

5.97 acre-feet per annum August 1, 1902

Source of Water: An unnamed draw, a tributary of the Rio Chama.

Purpose of Use: STOCKWATERING AND RECREATION

Point of Diversion:

Pond: VAUGHN POND NO. 2

Location: X = 1,570,071 feet Y = 2,130,247 feet

New Mexico State Plane Coordinate System, Central Zone, NAD 1983

Pond Location and Surface Area:

Within the Tierra Amarilla Grant

Vaughn Pond No. 2

	<u>6.0 acres</u>
Total	6.0 acres

As shown on the 2003 Hydrographic Survey Map CHCV-8.

Pond Volume: 45.10 acre-feet

Dam Height: 23 feet above stream bed

5. Defendant has no surface or groundwater rights in the Rio Chama Stream System, Village of Chama, Section 7, under Subfile CHCV-008-0001 other than those set forth in this order and other orders entered by this Court in this cause.
6. The entry of this order shall have no effect upon Defendant's claims or water rights of Defendant associated with unlicensed impoundments or domestic uses of water in the Rio Chama Stream System, Village of Chama, Section 7. This order is limited to Defendant's water rights for licensed ponds identified in this order and defendant's surface and groundwater rights for irrigation in the Rio Chama Stream System, Village of Chama, Section 7 under Subfile CHCV-008-0001.

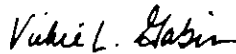
7. Defendant, his or her successors, representatives, heirs and assigns, should be enjoined from any use of the public waters of the Rio Chama Stream System, Village of Chama, Section 7, except in strict accordance with the water rights described herein and in other orders of the Court.
8. The water rights described herein are adjudicated subject to the right of any other water rights claimant with standing to object prior to the entry of a final decree.
9. The phrase "stockwatering and recreation" as used in this order includes but is not limited to use for fish and game.

IT IS THEREFORE ORDERED that the rights of the Defendant to divert and use the waters of the Rio Chama Stream System, Village of Chama, Section 7, for the licensed ponds identified in this order and Defendant's surface and groundwater rights for irrigation under Subfile CHCV-008-0001, are as set forth herein. The Defendant, his or her successors, representatives, heirs and assigns, are enjoined from any diversion or use of the public waters of the Rio Chama Stream System, Village of Chama, Section 7, except in strict accordance with the rights set forth herein or in other orders of the Court.

IT IS FURTHER ORDERED that the Court enters this Consent Order as a final judgment as to the elements of the Defendant's water rights set forth herein, subject to the right of other claimants to file objections to individual adjudication orders, and to the entry of the final decree in this proceeding.


BRUCE D. BLACK
UNITED STATES DISTRICT JUDGE

Approved:



VICKIE L. GABIN
SPECIAL MASTER

Accepted:



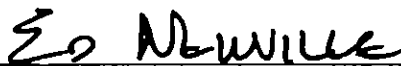
LEVI PESATA
President, Jicarilla Apache Nation



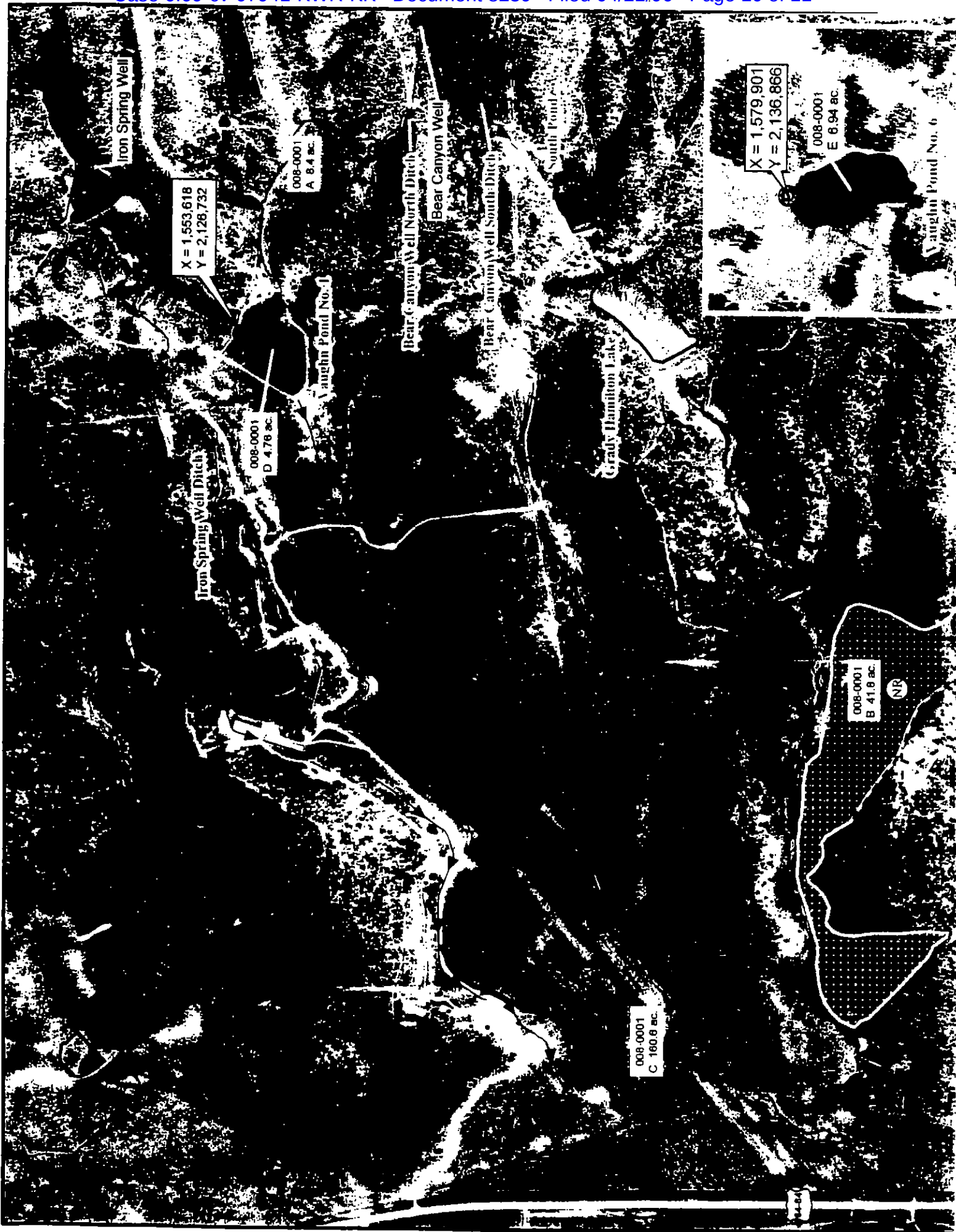
SUSAN G. JORDAN
Nordhaus Law Firm, LLP
1239 Paseo de Peralta
Santa Fe, NM 87501

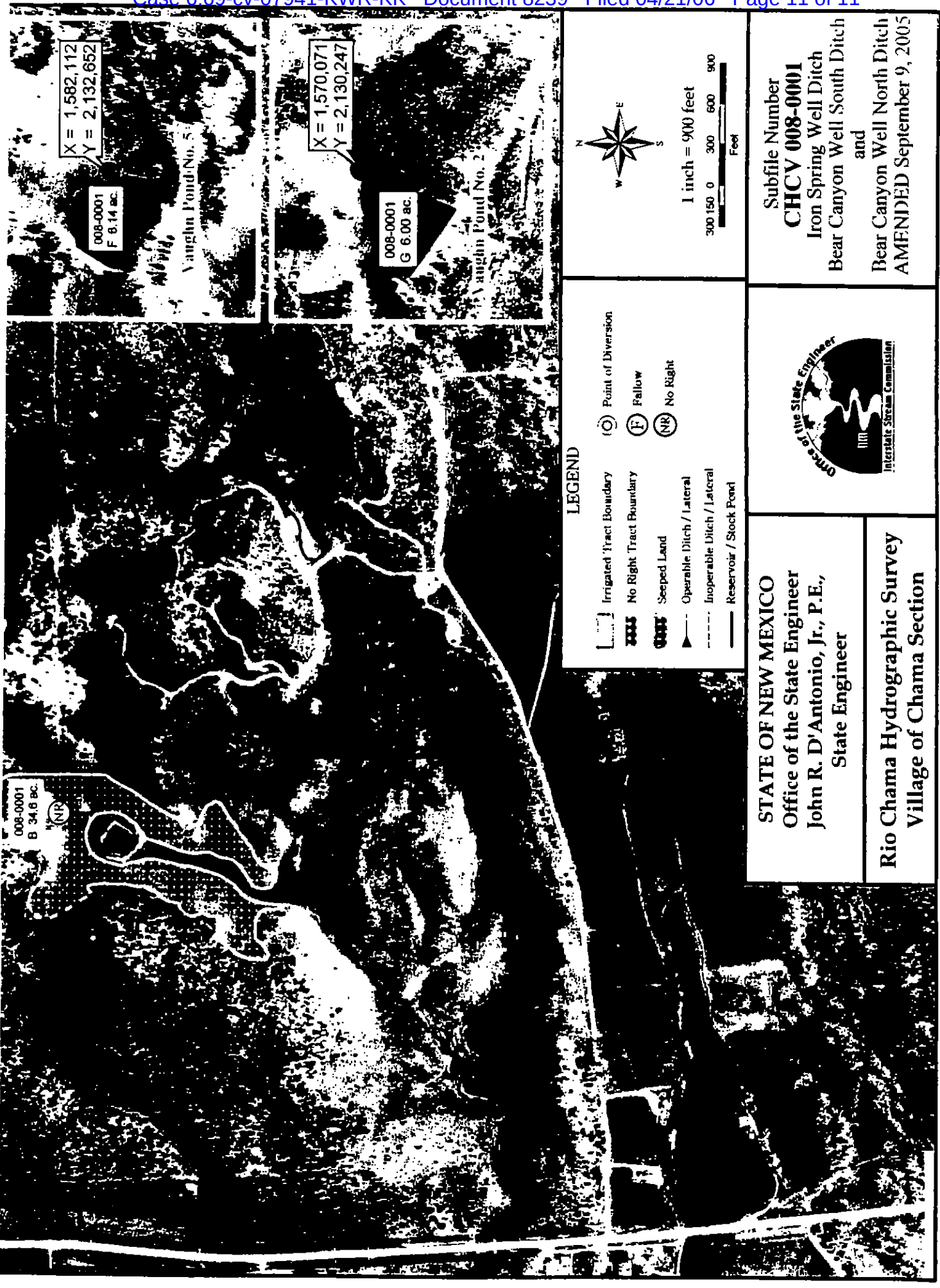
LESTER K. TAYLOR
Nordhaus Law Firm, LLP
405 Dr. Martin Luther King Ave NE
Albuquerque, NM 87102-3541

Attorneys for Jicarilla Apache Nation



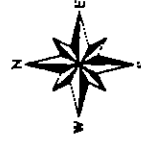
EDWARD G. NEWVILLE
Special Assistant Attorney General
Office of the State Engineer
P.O. Box 25102
Santa Fe, NM 87504-5102





LEGEND

- Irrigated Tract Boundary
- No Right Tract Boundary
- Seeped Land
- Operable Ditch / Lateral
- Inoperable Ditch / Lateral
- Reservoir / Stock Pond
- Point of Diversion
- Fallow
- No Right



1 inch = 900 feet



STATE OF NEW MEXICO
Office of the State Engineer
John R. D'Antonio, Jr., P.E.,
State Engineer

Rio Chama Hydrographic Survey
Village of Chama Section



Subfile Number
CHCV 008-0001
Iron Spring Well Ditch
Bear Canyon Well South Ditch
and
Bear Canyon Well North Ditch
AMENDED September 9, 2005